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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF ARIZONA

13 United States of America,
14 Plaintiff,

15 vs.

16 Devonte Okeith Mathis,
17 Defendant.
18

No. CR-21-02714-001-TUC-RM (MSA)

**GOVERNMENT'S FOURTH MOTION
TO EXTEND COURT ORDER
PREVENTING PIMA COUNTY
MEDICAL EXAMINER'S OFFICE
FROM RELEASING DOCUMENTS**

19
20 The Court has previously granted motions from the United States in this case to
21 preclude the Pima County Medical Examiner's Office from releasing reports and other
22 documents in connection with two autopsies for a period of 180 days. The most recent
23 order is set to expire on October 14, 2023. (Doc. 65.) In the interests of the decedents' and
24 their families' privacy, and given the lack of any competing or countervailing interests in
25 the disclosure of these highly sensitive materials, the United States hereby moves the Court
26 to extend the prior order preventing the disclosure of these materials indefinitely.

27 **I. Relevant Facts and Procedural History**

28 As the Court is aware, on March 15, 2023, defendant Devonte Okeith Mathis waived

1 prosecution by indictment, and an information was filed (Docs. 57-58) charging that on or
2 about October 4, 2021, Mathis conspired to possess with intent to distribute marijuana, in
3 violation of 21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(D) and 21 U.S.C. § 846 (Count
4 1); and used and carried a firearm during and in relation to a drug trafficking crime, and
5 possessed a firearm in furtherance of a drug trafficking crime, aid and abet, in violation of
6 18 U.S.C. § 924(c)(1)(A) (Count 2). Those charges were related to events occurring in
7 Tucson, Arizona on October 4, 2021, that resulted in the death of a Special Agent and
8 another individual, D. T. The Pima County Medical Examiner's Office performed
9 autopsies on the deceased individuals related to this investigation and produced reports and
10 other documentary evidence associated with these autopsies.

11 The defendant was sentenced on June 22, 2023, to 10 years' imprisonment
12 followed by three years supervised release. (Doc. 76).

13 **II. Argument**

14 Since the inception of the case, the Court has granted motions by the United States
15 to preclude the Pima County Medical Examiner's Office from releasing reports and other
16 documents created in connection with two autopsies for a period of 180 days. (*See* Docs.
17 16, 33, 43, 65.) The most recent order, dated April 17, 2023, is set to expire on October
18 14, 2023. (Doc. 65.)

19 This case—including the sentencing—received extensive media coverage and
20 public interest. There are strong privacy interests at stake in this case, particularly for the
21 decedents' family members (including victim M.G.'s daughter and widow, both of whom
22 spoke at the sentencing hearing). The documents at issue were never filed or lodged with
23 the Court, and accordingly never became judicial records. The public accordingly has no
24 presumptive right of access to these records. *See United States v. Loughner*, 807 F. Supp.
25 2d 828, 834 (D. Ariz. 2011) (“[D]iscovery materials, like the reports and documents in
26 question here, are not ‘judicial records under federal law, and the public [therefore] has no
27 presumptive right of access to them.”) (cited in Doc. 16 at 1); *see also In re Granick*, 388
28 F. Supp. 3d 1107 (N.D. Cal. 2019) (finding no common-law common law right of access to

1 post-investigative materials). In light of the highly sensitive nature of the autopsy materials
2 in this case, and the lack of compelling interests in the disclosure of these highly sensitive
3 materials, the United States requests at this juncture that the materials remain shielded from
4 public disclosure for the indefinite future.

5 Undersigned counsel has informed counsel for the defendant of this motion, who
6 does not object to this motion.

7 **III. Conclusion**

8 Accordingly, the United States respectfully requests that the Court enter an order
9 restraining any member of the Pima County Medical Examiner's Office, indefinitely, from
10 releasing any documents to include the official autopsy reports of the decedents in this
11 case.

12
13 RESPECTFULLY SUBMITTED this 3rd day of October, 2023.

14 GARY M. RESTAINO
15 United States Attorney
16 District of Arizona

17 s/ Lindsay L. Short
18 DIMITRA H. SAMPSON
19 KEITH VERCAUTEREN
20 LINDSAY L. SHORT
21 Assistant U.S. Attorneys

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on this 3rd day of October, 2023, I electronically transmitted
24 the attached document to the Clerk's Office using the CM/ECF System for filing and
25 transmittal of a Notice of Electronic Filing to the following CM/ECF registrant:

26 Stephanie Meade
27 Attorney for Defendant

28 s/ Lindsay L. Short
 U.S. Attorney's Office